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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:

OAH Case No.: 2015120368

THE COMMISSIONER OF BUSINESS
OVERSIGHT,

NMLS NO.: 1283825

Complainant,

v.

SUPPLEMENTAL STATEMENT OF ISSUES
IN SUPPORT OF NON-ISSUANCE OF
MORTGAGE LOAN ORIGINATOR
LICENSE

JULIO ANGEL GOMEZ, an individual,

Respondent.

The Commissioner of Business Oversight (“Commissioner”) is informed and believes, and based upon such information and belief, alleges and charges as follows:

I

Introduction

The Commissioner has determined not to issue a mortgage loan originator license to Julio Angel Gomez ("Gomez"), pursuant to the Finance Lenders Law (Fin. Code, § 22000 et seq.) (“CFL”) section 22109.1 and the California Residential Mortgage Lending Act (Fin. Code, § 50000 et seq.) (“CRMLA”) section 50141, because Gomez has failed to demonstrate general fitness to operate

1 honestly and fairly as a mortgage loan originator.

2 Specifically, Gomez’s mortgage loan originator license application should be denied because
3 Gomez recently pleaded guilty to securities fraud and perjury, crimes involving fraud and dishonesty
4 and a “strike” under California law. Gomez is also the subject of two expunged felony convictions –
5 carrying a concealed firearm and carrying a loaded firearm after having been convicted of a felony.
6 The latter of the two expunged felony convictions is a crime of moral turpitude.

7 Furthermore, Gomez’s mortgage loan originator license application should be denied because
8 Gomez was the subject of a civil lawsuit brought by the Commissioner for violations of two financial
9 services-related statutes. That lawsuit resulted in a final judgment, enjoining Gomez from violating
10 sections 25110 and 25401 of the Corporations Code. The judgment also required Gomez to pay
11 disgorgement of unlawfully obtained fees and commissions. The recent guilty pleas, expunged felony
12 convictions, and civil judgment undermine Gomez’s financial responsibility, character, and general
13 fitness to operate honestly and fairly as a mortgage loan originator.

14 II

15 The Application

16 On or about March 31, 2015, Gomez filed an application for a mortgage loan originator
17 license with the Commissioner. Gomez’s application was submitted to the Commissioner by filing
18 Form MU4 through the Nationwide Mortgage Licensing System (“NMLS”).

19 Form MU4 at Question F specifically asked: “Have you ever been convicted of or pled guilty
20 or nolo contendere (‘no contest’) in a domestic, foreign, or military court to any felony?” Gomez
21 answered “no.” At a later date, Gomez uploaded documents to NMLS showing that Gomez was the
22 subject of two expunged felony convictions – carrying a concealed firearm and carrying a loaded
23 firearm after having been convicted of a felony.

24 Form MU4 at Question F also asked: “Are there pending charges against you for any felony?”
25 Gomez answered “yes.” Gomez is currently a defendant in a pending criminal case filed on
26 September 5, 2014 in California Superior Court, for the County of San Diego (case number
27 CD255741). In that case the People of the State of California charged Gomez with seventeen counts
28 of selling unqualified, nonexempt securities (in violation of Corporations Code sections 25110),

1 sixteen counts of making material misrepresentations or omissions in connection with the sale of
2 securities (in violation of Corporations Code section 25401), four counts of theft from an elder or
3 dependent adult (in violation of Penal Code section 368, subdivision (d)), two counts of first degree
4 burglary (in violation of Penal Code section 459), one count of conspiracy (in violation of Penal Code
5 section 182, subdivision (a)(1)), one count of grand theft of personal property (in violation of Penal
6 Code section 487, subdivision (a)), one count of willfully and unlawfully employing a scheme to
7 defraud in connection with the offer, purchase, or sale of securities (in violation of Corporations Code
8 section 25541), and one count of perjury (in violation of Penal Code section 118, subdivision (a)).
9 These charges stem from Gomez's involvement in a securities scheme, civilly prosecuted by the
10 Commissioner. As discussed below, Gomez pleaded guilty to three of these charges on January 21,
11 2016, after the date Gomez filed his application for a mortgage loan originator license.

12 Additionally, Form MU4 at Question J specifically asked: "Has any domestic or foreign court
13 ever found that you were involved in a violation of any financial services-related statute(s) or
14 regulation(s)?" Gomez answered "yes." Gomez was named as a defendant in a civil lawsuit filed by
15 the Commissioner on December 19, 2012 in California Superior Court, County of San Diego (case
16 number 37-2012-00088160-CU-MC-CTL).

17 III

18 Felony Guilty Pleas

19 On January 21, 2016, Gomez pleaded guilty to two counts of making material
20 misrepresentations or omissions in connection with the sale of securities in violation of Corporations
21 Code section 25401 (including the "aggravated white collar crime enhancement" under Penal Code
22 section 186.11, subdivision (a)(2)), and one count of perjury under Penal Code section 118,
23 subdivision (a). Gomez's guilty plea involves a serious felony and a "strike" under California law.
24 Gomez's sentencing is scheduled for March 18, 2016.

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IV**Expunged Criminal Convictions**

In the mortgage loan originator license application process, Gomez produced documentation showing that he had been convicted of two felonies that were later expunged. The felonies are: (1) carrying a concealed firearm; and (2) carrying a loaded firearm after having been convicted of a felony.

V**Civil Judgment**

Gomez was named as a defendant in a 2012 civil lawsuit filed by the Commissioner. The Commissioner filed a complaint for injunctive relief, appointment of a receiver, civil penalties, and ancillary relief for violations of Corporations Code section 25110 (unqualified, non-exempt sale of securities) and 25401 (material misrepresentations and omissions in the offer and sale of securities). Without admitting or denying the allegations in the complaint, Gomez consented to the entry of a final judgment against him.

The judgment permanently enjoined Gomez from offering or selling unqualified, non-exempt securities and offering or selling securities through misrepresentations or omissions of material facts. The judgment also required Gomez to pay disgorgement of unlawfully obtained fees and commissions earned from selling securities. Gomez's commissions totaled \$54,482.11.

VI**Applicable Law**

Section 22109.1 of the CFL and section 50141 of the CRMLA, contain substantially similar language and provide in relevant part:

(a) The commissioner shall deny an application for a mortgage loan originator license unless the commissioner makes, at a minimum, the following findings:

...

(2)(A) The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court during the seven-year period preceding the date of the application for licensing and registration, or at any time preceding the date of application, if the felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering. Whether a particular crime is classified as a felony

shall be determined by the law of the jurisdiction in which an individual is convicted.

(2)(B) For purposes of this paragraph, an expunged or pardoned felony conviction shall not require denial of an application. However, the commissioner may consider the underlying crime, facts, or circumstances of an expunged or pardoned felony conviction when determining the eligibility of an applicant for licensure under this paragraph or paragraph (3).

(3) The applicant has demonstrated such financial responsibility, character, and general fitness as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this division.

(Fin. Code, §§ 22109.1 & 50141.)

Gomez is required to amend his application on or before February 10, 2016 to disclose the felony guilty pleas. (See Title 10 California Code of Regulations §§ 1422.6(g) & 1950.122.5(g), requiring amendment of an application within twenty days of any change to the information therein.) The application, once amended, will reveal that Gomez has pled guilty to three felonies (with an enhancement), constituting a “strike” under California law, during the seven-year period preceding the application date. The felonies include securities fraud and perjury and involve acts of fraud and dishonesty. (*People v. Chavez* (2000) 84 Cal.App.4th 25, 28.) These crimes undermine his financial responsibility, character, general fitness and ability to operate honestly, fairly, and efficiently as a mortgage loan originator.

Furthermore, courts have held that possession of a firearm, when committed by a felon, is a crime that involves moral turpitude and indicates dishonesty, among other traits. (See *People v. Littrel* (1986) 185 Cal.App.3d 699, 703; *People v. Maestas* (2005) 132 Cal.App.4th 1552, 1556.) The Commissioner may consider the underlying crime, facts, or circumstances of an expunged felony conviction when determining an applicant’s financial responsibility, character, general fitness and ability to operate honestly, fairly, and efficiently as a mortgage loan originator. (Fin Code, §§ 22109.1 & 50141.) Thus, Gomez’s expunged felony conviction casts further doubt on his financial

responsibility, character, general fitness and ability to operate honestly, fairly, and efficiently as a mortgage loan originator.

Lastly, Gomez was named as a defendant in a 2012 civil lawsuit filed by the Commissioner involving violations of two financial services-related statutes, Corporations Code sections 25110 and 25401. Gomez consented to a final judgment that enjoined him from selling unqualified, non-exempt securities and from offering or selling securities by misrepresenting or omitting material facts. The final judgment also required Gomez to pay back unlawful fees and commissions. Gomez's involvement in the securities scheme and the resulting judgment cast doubt on his financial responsibility, character, general fitness and ability to operate honestly, fairly, and efficiently as a mortgage loan originator.

VII

Conclusion

The Commissioner finds, by reason of the foregoing, that Gomez's recent guilty pleas to crimes involving fraud and dishonesty, previously expunged felony convictions, and involvement in the civil lawsuit, and resulting judgment, call into question Gomez's general fitness to operate honestly and fairly as a mortgage loan originator.

THEREFORE, Financial Code sections 22109.1 and 50141 mandate that the Commissioner not issue a mortgage loan originator license to Gomez.

WHEREFORE IT IS PRAYED that the determination of the Commissioner not to issue a mortgage loan originator license to Gomez in connection with Gomez's application be upheld.

Dated: February 4, 2016
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
DANIELLE A. STOUMBOS
Counsel